

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Luke Petrinovic	Team: Squad #13	CCRB Case #: 201608496	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/07/2016 12:20 AM	Location of Incident: Crescent Street and 33rd Road	Precinct: 114	18 Mo. SOL 4/7/2018	EO SOL 4/7/2018	
Date/Time CV Reported Fri, 10/07/2016 10:44 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 10/07/2016 10:44 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Amir Latif	30985	958797	114 PCT
2. SGT Daquan Bendele	02420	923163	114 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Daquan Bendele	Abuse: SGT Daquan Bendele stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Amir Latif	Abuse: PO Amir Latif stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Amir Latif	Abuse: PO Amir Latif frisked § 87(2)(b)	
D.POM Amir Latif	Abuse: PO Amir Latif searched § 87(2)(b)	
E.SGT Daquan Bendele	Abuse: SGT Daquan Bendele searched the vehicle in which § 87(2)(b) was an occupant.	

Case Summary

On October 7, 2016, § 87(2)(b) filed this complaint via the CCRB Call Processing System.

On October 7, 2016, at approximately 12:20 a.m., § 87(2)(b) was driving southbound on Crescent Street, in Queens, when he was pulled over at 33rd Road by SGT Daquan Bendele and PO Amir Latif, of the 114th Precinct (**Allegations A and B**). The officers approached § 87(2)(b) and told him that they had been trying to pull him over for several blocks. § 87(2)(b) told them that he had not noticed them. The officers asked § 87(2)(b) to step out of the car, and he did so.

When he stepped out of the car, PO Latif placed § 87(2)(b) in handcuffs and brought him to the back of his car. There, PO Latif frisked § 87(2)(b) and allegedly searched the pockets of his pants and jacket (**Allegations C and D**). While this happened, SGT Bendele leaned into the car through the driver's door and looked around the cabin (**Allegation E**). SGT Bendele did not find any contraband inside the car.

The officers removed § 87(2)(b) handcuffs, and PO Latif wrote him two tickets: one for § 87(2)(b) and one for § 87(2)(b). The officers gave § 87(2)(b) the tickets and then they left the area.

Mediation, Civil and Criminal Histories

- Mediation was offered to § 87(2)(b) in person during his CCRB interview. He rejected mediation, § 87(2)(b).
- A request for any related Notice of Claim was sent to the New York City Comptroller's office on October 31, 2016. As of the date of this report, no response has been received (Board Review 01).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) (Board Review 03).
- This is the first CCRB case in which PO Latif is a subject officer. He has been a member of service for one year (Board Review 04).
- SGT Bendele has been the subject of five previous CCRB allegations across three cases during his 18 year tenure with the NYPD. Three of the allegations were substantiated, all from the same case (Board Review 05):
 - In case 201210987, SGT Bendele was found to have entered a residence unlawfully, made an improper threat of arrest, and spoken discourteously to someone in an incident that stemmed from a landlord-tenant dispute. The CCRB recommended charges against the officers, and the NYPD has yet to take any disciplinary action in the case.

Findings and Recommendations

Allegation A – Abuse of Authority: SGT Daquan Bendele stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B – Abuse of Authority: PO Amir Latif stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(g) § 87(2)(b) denied that he had committed any traffic infractions, driven at an excessive speed, or noticed the officers behind his prior to crossing Broadway. He was listening to music as he drove, but it was not playing loudly (Board Review 06) (Board Review 12).

PO Latif (Board Review 07) and SGT Bendele (Board Review 08) consistently stated that they observed § 87(2)(b) drive through the intersection of 30th Avenue and Crescent Street with music playing unreasonably loud. They turned behind § 87(2)(b) to pull him over and issue him a warning about the music, and § 87(2)(b) began to speed and drove away. The officers pursued § 87(2)(b) with lights and sirens on, driving at speeds in excess of 70 miles per hour. At one point, § 87(2)(b) changed lanes to pass another motorist without signaling. They eventually told him over the loudspeaker to pull over, and he did so after driving approximately one more block, at 33rd Road. 33rd Road is approximately eight blocks from 30th Avenue. PO Latif wrote § 87(2)(b) a summons for § 87(2)(b) (Board Review 10). He explained in his interview that this charge is easier to process and prove in court than separate summonses for § 87(2)(b) and § 87(2)(b) would have been.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

Allegation C – Abuse of Authority: PO Amir Latif frisked § 87(2)(b)

It is undisputed that PO Latif frisked § 87(2)(b) after he exited the car and was placed in handcuffs. § 87(2)(b) stated that PO Latif ran his hands over the outside of his pants pockets and fleece pockets after he was placed in handcuffs. § 87(2)(b) had nothing more than a wallet, lighter, and some change in his pants pockets. § 87(2)(b) also stated that, as the officers approached his car after he stopped, he reached into his back pocket for his wallet, and retrieved his documents from the glove compartment. § 87(2)(b) denied that he had smoked or drunk alcohol on the day of the incident.

PO Latif stated that he frisked § 87(2)(b) over his pants pockets and waistband after he was taken out of the car and handcuffed. He performed the frisk because he thought § 87(2)(b) could have had a weapon, and frisked these particular areas only because they are common locations to conceal a weapon. He suspected that § 87(2)(b) may have had a weapon for two reasons: first, PO Latif stated that § 87(2)(b) had been driving erratically, as if he was trying to evade the officers; second, shortly before he pulled over, when § 87(2)(b) was stopped at a red light at Broadway, PO Latif had observed his shoulders dip in his seat and move side to side, as if he was reaching for something in his car or attempting to hide something. PO Latif also stated that he detected the odor of marijuana on § 87(2)(b) as soon as he approached the vehicle.

SGT Bendele corroborated PO Latif's statements about § 87(2)(b) movements inside the vehicle and evasive driving, but did not observe the frisk. PO Latif later commented to SGT

Bendele that he had performed a quick pat down and not recovered anything. SGT Bendele denied that the odor of marijuana was present.

§ 87(2)(g)

It is well established by the courts that an officer may remove an individual from a vehicle and conduct a frisk of them if they possess a reasonable suspicion that the individual is armed and poses a threat to their safety. Although the observation of an individual making furtive movements inside a car may, in some circumstances, provide an officer with reasonable suspicion of a weapon, innocuous movements cannot be considered furtive. People v. Rossetti, 148 A.D.2d 357, 539 N.Y.S.2d 4, (N.Y. App. Div. 1st Dep't 1989) (Board Review 09).

Speeding, not immediately stopping for an officer, and changing lanes without signaling are traffic infractions § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: PO Amir Latif searched § 87(2)(b)

§ 87(2)(g) § 87(2)(b) stated that PO Latif reached into his pockets after frisking them, but did not remove anything. PO Latif denied entering § 87(2)(b) pockets, and stated that he felt nothing during the frisk. SGT Bendele did not see what PO Latif did with § 87(2)(b) during this time.

§ 87(2)(g)

Allegation E – Abuse of Authority: SGT Daquan Bendele searched the vehicle in which

§ 87(2)(b) **was an occupant.**

§ 87(2)(b) alleged that he saw SGT Bendele lean into his car through the driver's door and look around. He then went around to the passenger's side, and leaned into the car through the passenger's door and looked around. He could not see if SGT Bendele opened or touched anything in the car but when he later entered the car it seemed like his backpack, which was unzipped on the front passenger's seat, had been moved. § 87(2)(b) did have one small metallic marijuana grinder in his car, and he could not recall where it was before the stop; however, he denied that it was anywhere in plain view.

SGT Bendele stated that he observed a metallic object sticking out from under § 87(2)(b) right thigh as he was seated in the driver's seat while talking with PO Latif. Fearing that the object could be the handle of a gun or a knife, SGT Bendele decided to have § 87(2)(b) exit the car so he could check. After § 87(2)(b) was out of the car, SGT Bendele observed the object he had seen to be a marijuana grinder. Believing that the grinder may contain marijuana, SGT Bendele removed it from the driver's seat and opened it. Finding it empty, SGT Bendele went to place it back on the seat but dropped it onto the floor of the car by accident. When he

reached down to pick it up he saw another marijuana grinder under the driver's seat, which he likewise removed, opened, found empty, and returned. While inside the car, SGT Bendele took a cursory look around the cabin, and moved a backpack that was leaning against the back of the driver's seat. This was the extent of his search of the car; SGT Bendele did not open anything inside the car, or enter the car through any part aside from the driver's door.

PO Latif was unable to see the extent of SGT Bendele's search, but at some point SGT Bendele questioned § 87(2)(b) about a marijuana grinder he had found. PO Latif did not see this grinder or any other suspicious object before § 87(2)(b) exited the car; however, he stated in his interview that he would have seen from his position. For safety reasons, PO Latif was standing behind the driver's door on the driver's side while he spoke with § 87(2)(b).

It is well established by the courts that an officer may conduct of search of a vehicle if he or she has probable cause to believe that it contains drugs. Whenever an officer observes drug paraphernalia inside a vehicle, they have probable cause to believe that there are drugs in the vehicle as well. People v. Wilcox, 198 A.D.2d 544, 603 N.Y.S.2d 199, 1993 N.Y. App. Div. (N.Y. App. Div. 3d Dep't 1993) (Board Review 13).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Squad:

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date